

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 1675 OF 2003**

Gulshankumar N. Mehta ..Petitioner  
                                versus  
Pitamber Gerimal & Anr. ..Respondents

Mr. S. Dhadge for the Petitioner.

Mr. V. B. Konde-Deshmukh, APP for the  
Respondents - State.

**CORAM : D. G. DESHPANDE, J.  
DATE : 1ST AUGUST, 2006**

**P.C. :**

1. Heard counsel for the Petitioner and learned  
APP for the State.

2. Petitioner - Original complainant has  
challenged the order passed by the Revisional Court,  
by which Revisional Court i.e. Adhoc Addl.  
Sessions Judge, Raigad, Alibag, discharged the  
Respondents - accused vide order dated 13.8.2003.  
From the order itself, it appears that the present  
petitioner who was opponent No.1 in that Revision  
was absent when the matter was called out and no  
sufficient opportunity was given. Therefore, after

hearing the accused, the Revisional Court has passed the impugned order. It is admittedly an exparte order. Respondents No. 1 and 2 in this petition before this court are served as per the affidavit of service. Nobody is present for the respondent Nos. 1 and 2. Therefore, the only order that can be passed in the interest of both the parties, that the order dated 13.8.2003 passed by Adhoc Addl. Sessions Judge Raigad - Alibag in Criminal Revision Application No. 102 of 2002 be set aside and that the matter be heard afresh after hearing the petitioner also. Therefore, order:

#### **ORDER**

. Petition is allowed. Rule made absolute.

. Order dated 13.8.2003 passed by Adhoc Addl. Sessions Judge Raigad - Alibag in Criminal Revision Application No. 102 of 2002 is set aside. Revision is restored to the file of Sessions Judge, Raigad - Alibag. He will issue notice to both the parties and hear both the sides and then decide the matter on its own merits.

. Counsel for the petitioner to communicate this order to the concerned court.

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(D.G. DESHPANDE, J. )